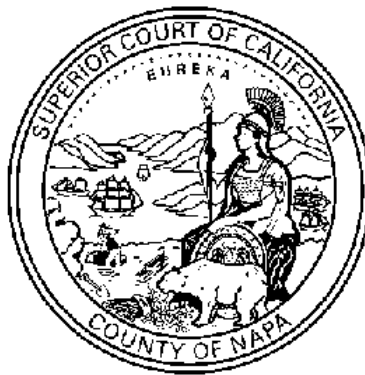


Superior Court of California County of Napa



Local Court Rules

Effective 7/1/2009

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RULE 1: SCOPE OF RULES FOR THE SUPERIOR COURT

These rules are intended to supplement the California Codes and Rules of Court. All attorneys and self-represented parties appearing before the Napa Superior Court must know and abide by these rules, as well as all applicable California Codes and Rules. Further, these rules are cumulative and are to be read as a whole. Thus, every rule applies to every case and every party or attorney appearing before the Napa Superior Court unless common sense or another provision of these rules exempts or supercedes it. These rules, the annual judicial assignments, and the court's schedules and calendar are available on the court's website at <http://www.napa.courts.ca.gov>. (Effective 7/1/02)

1.1 Effective Date of Rules

These rules shall take effect on July 1, 2009. (Effective 7/1/02; revised 7/1/03; revised 7/1/05; revised 1/1/06; revised 7/1/06; revised 1/1/07; revised 7/1/07; revised 7/1/08; revised 1/1/09; revised 7/1/09)

1.2 Citation of Rules

These rules shall be known and cited as "Local Rules for the Superior Court of the State of California, County of Napa". (Effective 1/1/99)

1.3 Construction and Application of Rules

These rules shall be liberally construed to serve the proper and efficient administration of the business and affairs of this court and to promote and facilitate the administration of justice by the Superior Court of Napa County.

These rules may be amended or repealed and new rules may be added, by majority vote of the judges. Rule and subdivision headings do not affect in any manner the scope, meaning, or intent of any of the provisions of these rules.

These rules are adopted pursuant to Code of Civil Procedure section 575.1. Any party or counsel for a party failing to abide by these rules may be sanctioned upon motion of any party or counsel for a party or on the court's own motion as set forth in Code of Civil Procedure section 575.2. (Effective 7/1/02)

RULE 2: COURT ORGANIZATION

The judiciary and the court's management team establish the court's administrative policy. All judges participate in court policy-making. The daily administration of the court is conducted by the duly elected presiding judge and assistant presiding judge, and the appointed Court Executive Officer. This administrative team is known as the Executive Committee of the Superior Court of Napa County. This Executive Committee has the authority to formulate and propose rules of procedure and court policies with the opportunity for the public and the bar to participate. The superior court system has the following characteristics:

- A.** The judiciary consisting of judges elected to or appointed to the Superior Court of the County of Napa.
- B.** An Executive Committee consisting of the duly elected presiding and assistant presiding judges of the superior court, and the appointed Executive Officer of the superior court.
- C.** A policy making body consisting of all members of the judiciary of the Superior Court of the County of Napa. (Effective 7/1/02)

2.1 Policy Making Authority

Responsibility for formulating policy, including regulations concerning court administration, is vested in the Executive Committee of the court system with advice from the entire membership of the judiciary and the consent of a simple majority of the judiciary. (Effective 1/1/99)

2.2 Administrative Authority

Administrative supervision of the court system as a whole is exercised by an Executive Officer of the Superior Court of the County of Napa who serves at the pleasure of the court and is appointed by the elected or appointed judges of the superior court by a simple majority. (Effective 7/1/02)

2.3 Administrative Responsibility

While each judge retains exclusive judicial discretion over the substantive processing of cases in his or her respective court of original jurisdiction, the administrative processing of cases is subject to the supervisory authority of the court system's Executive Committee. (Effective 7/1/93)

2.4 Presiding Judge and Assistant Presiding Judge

The business of the superior court shall be supervised by a presiding judge or assistant presiding judge selected by a majority of the judges of the court during August every two (2) years to serve a two-year term, commencing January 1. He or she shall perform the duties prescribed by state law and by these rules. If at any time the presiding judge is absent, ill, or otherwise unable to perform these duties, the assistant presiding judge shall perform all duties of the presiding judge. If at any

time during the term of office both the presiding judge and assistant presiding judge are unavailable, the senior judge or another judge designated by the presiding judge shall serve as acting presiding judge during the period of unavailability. (Effective 7/1/02; revised 7/1/06; revised 7/1/08)

2.5 Location and Schedule of Court Sessions

Sessions of the court shall be held in the courtrooms provided at the Historic Courthouse, 825 Brown Street; the Criminal Courts Building, 1111 Third Street; and the Juvenile Court, 2350 Old Sonoma Road. In addition, the court may conduct sessions at any appropriate location within the County of Napa at the direction of the judicial officer presiding at such hearing. The courtrooms are at the following locations:

Historic Courthouse, 825 Brown Street

Courtroom A	2d Floor
Courtroom B	2d Floor
Courtroom C	2d Floor
Courtroom N	1st Floor
Courtroom O	2d Floor

Criminal Courts Building, 1111 Third Street

Courtroom D	2d Floor
Courtroom E	2d Floor
Courtroom F	3d Floor
Courtroom G	3d Floor
Courtroom H	3d Floor

Juvenile Court, 2350 Old Sonoma Road (Effective 7/1/02; revised 1/1/06)

2.6 Applications for Ex Parte Orders

Except as otherwise specifically provided by these rules, applications for ex parte orders shall conform to California Rules of Court, rules 3.1201–3.1207, and be presented as follows:

- A. Civil.** Applications involving civil matters shall be presented to a judicial officer of the civil division at 11:30 a.m. each court day. Unless the nature of the application precludes giving notice to the other side, such notice must be given and an appointment must be made by calling the clerk of the court no later than 10:00 a.m. the preceding court day. The court may waive notice for good cause.
- B. Family Law/Juvenile/Guardianships.** Applications involving family law, juvenile, and guardianship matters shall be presented to a judicial officer of the family law division at 11:00 a.m. each court day. Unless the nature of the application precludes giving notice to all parties (and to the Probation Department in Welfare & Institutions Code sections 300 and 602 matters), such notice must

given and an appointment must be made by calling the clerk of the court no later than 10:00 a.m. the preceding court day. The court may waive notice for good cause.

C. Probate. With the exception of guardianship ex partes, which shall be heard as set forth in subdivision (B) above, applications involving probate matters shall be presented to a judicial officer of the civil division at 11:30 a.m. each court day. Unless the nature of the application precludes giving notice to the other side, such notice must given and an appointment must be made by calling the clerk of the court no later than 10:00 a.m. the preceding court day. The court may waive notice for good cause.

D. Unavailability or Disqualification. If the judge to whom an application should be presented under this rule is unavailable (*i.e.*, not physically present) or is disqualified, or in cases of emergency, the application may be presented to any available judge of the court. (Effective 7/1/02; revised 7/1/03; revised 7/1/05; revised 1/1/06; revised and relettered 7/1/06; revised 1/1/07)

2.7 “Duty” Judge

One judge shall be the duty judge each month. The duty judge shall be responsible for the handling of emergency protective orders, off-hours search warrants, off-hours writs, and other matters requiring judicial attention off-hours.

The judges shall annually designate which month each will serve and will notify Napa County Central Dispatch of these designations. A duty judge unable to act will arrange for a substitute and will notify dispatch accordingly.

In the event the duty judge cannot be reached, any judge may be contacted for off-hours judicial business. Judges can be reached through Napa County Central Dispatch at (707) 253-4451 during non-court hours. (Effective 7/1/02)

2.8 Compensation of Court-Appointed Counsel and Investigators

Current compensation rates for appointed counsel and investigators are available on the Napa Superior Court web site at <http://www.napa.courts.ca.gov>. (Effective 1/1/99; revised 7/1/04; revised 7/1/07)

2.9 Telephonic Appearances

A. Program Overview. The Napa Superior Court permits telephonic appearances for non-evidentiary law and motion matters, including Trial Setting Conferences and Title IV D hearings and conferences, as set forth in California Rules of Court, rule 5.324.

Superior Court of California, County of Napa

1. Telephonic appearance is available at a fixed fee to use when circumstances are appropriate.
2. Preference may be given to cases with telephonic appearances.
3. Hearings are conducted in open court or in private as the court may designate. All attorneys or parties making telephonic appearances call a designated toll-free teleconference number a few minutes before the calendar is scheduled to check in with the clerk. Attorneys or parties remain on the court's speakerphone telephone line and hear the same business as those present in court. Attorneys or parties not participating telephonically appear in person. The court calls cases for hearing. All attorneys or parties on a case participate in the hearing. All present in the courtroom hear the discourse of those making telephonic appearances, unless the case is heard in private.
4. Parties intending to appear by telephone must give five (5) days' written notice of said intention to all other counsel and parties, and must pay the required fee to the telephone appearance provider.

B. Participation in Telephonic Appearances.

1. Courts

- a. Each participating court may give calendar hearing order preference to cases that include attorneys or parties making telephonic appearances.
- b. The following matters are currently deemed unsuitable for telephonic appearances:
 - (1) Any hearing at which witnesses are called to testify;
 - (2) Settlement Conferences and final Status Conferences, unless the court orders otherwise;
 - (3) Any hearing or conference for which the court determines that a personal appearance would materially assist in a determination of the proceeding or in resolution of the case.
- c. The court reserves the right, at any time, to reject any request for telephonic appearance. When the court rejects a request, it shall notify the telephonic appearance provider and order a refund of deposited telephonic appearance fees.

d. The court shall also reserve the right to halt the telephonic hearing on any matter and order the attorneys or parties to personally appear at a later date and time, in which case no refund is permitted.

e. If a matter is continued prior to the actual hearing date, the prior request for telephonic appearance shall remain valid for the continued date of the hearing, provided the attorney or party notifies the telephonic appearance provider in writing of the continuance. There are no refunds for matters that go “off calendar”.

f. Existing rules and procedures regarding the preparation of the record by a court reporter or electronic device or obtaining a transcript after the hearing shall apply to hearings at which telephonic appearances are made.

2. Attorneys and Parties

a. Attorneys or parties electing to make a telephonic appearance must arrange the appearance with a telephonic appearance provider.

b. The words “Telephonic Appearance Requested” must be printed below the department, date, and time of the hearing on the first page of papers filed with the court.

C. Appearance Procedure.

1. An attorney or party making a telephonic appearance shall:

a. Eliminate to the greatest extent possible all ambient noise from the attorney’s or party’s location;

b. Speak directly into a telephone handset;

c. Not call in via a payphone, cellular or cordless telephone device, or a personal computer.

2. An attorney or party making a telephonic appearance must call the court’s designated toll-free teleconference line approximately five (5) minutes prior to the scheduled hearing time and check in with the clerk. An attorney or party calling after the check-in period shall be considered late for the hearing and shall be treated by the court in the same manner as if the attorney or party had personally appeared late for the hearing.

3. An attorney or party appearing telephonically must state his or her name for the record each time he or she speaks, and shall participate in the appearance with the same degree of courtesy and courtroom etiquette as is required for a personal appearance. A person appearing by telephone must not use the “hold” button, as it is not within the policy of the court to wait for an attorney or party to rejoin the line. (Effective 7/1/02; revised 7/1/03; revised 7/1/06; revised 1/1/07; revised 7/1/08)

2.10 Tentative Ruling System

The court has adopted a tentative ruling system in civil law and motion and probate matters. Tentative rulings will be available no later than 3:00 p.m. on the court day before the scheduled hearing, and may be obtained on the court’s website, <http://www.napa.courts.ca.gov>. Rulings may also be obtained by calling (707) 299-1270.

Oral argument on matters for which a tentative ruling has been posted will be permitted only if a party notifies all other parties and the court by 4:00 p.m. on the court day before the hearing that the party intends to appear and argue. Notice to the court shall be given by calling (707) 299-1270 (when recording begins, press “0”). If notice of intent to appear has not been given to all parties and to the court, no oral argument will be permitted and the tentative ruling will become the court’s ruling. If no tentative ruling is posted on a particular matter, or if the tentative ruling indicates that an appearance is required, then the parties must appear at the hearing. (Effective 7/1/02; revised 7/1/03; revised 1/1/07; revised 1/1/09)

2.11 Facsimile Filing

The Napa Superior Court will accept agency fax filing of all documents except those specified in California Rules of Court, rule 2.300.

Direct filing of documents by fax to the Napa Superior Court is allowed on a case-by-case basis if deemed necessary and appropriate to expedite a matter and then only upon prior approval or by direction of a judicial officer. The telephone number for fax filings is (707) 253-4229 for civil filings, and (707) 253-4673 for criminal filings. The court does not allow direct fax filings of documents that require a fee, a signature of a judge, documents with multiple exhibits, or any document not permitted by law to be faxed. The submitting party is to retain the original of any faxed document, and shall provide it to the court only upon court order or request of opposing party.

A fax filing cover sheet is required and must contain the following information:

1. The judicial officer to whom the fax filing is directed.
2. The judicial officer who permitted a direct fax filing, if applicable, and the date and time of such authorization.

Fax filings must comply with all filing requirements otherwise listed in the State or Local Rules. Compliance with all rules and proper transmission of the documents are the responsibility of the sending party and/or the fax filing service. (Effective 7/1/02; revised 1/1/07)

2.12 Sealing of Juror Information

The addresses and telephone numbers of jurors may be sealed at the time the jurors are impaneled. Upon petition to the court, the information may be unsealed upon 20 days' notice to any juror who may be affected by a court order unsealing the information. Upon recording of the verdict in a criminal case, the court shall follow the procedure specified in Code of Civil Procedure section 237. (Effective 7/1/02)

2.13 Courtroom Security

To ensure the security of the courthouses and courtrooms, no person, except those authorized to do so, shall enter any courthouse or courtroom carrying, or in possession of, any weapon or device as described in Penal Code section 171b, or any other thing that may reasonably be used as a weapon. "Weapon" includes any knife, even if less than four (4) inches in length. Court security staff may search any person entering any courthouse or courtroom for possession of weapons. (Effective 7/1/02)

2.14 Court Reporter Fees

Court reporter fees are due and payable at the beginning of the hearing or Trial. "Beginning" is defined as the moment the matter is assigned to the trial court and the judicial official calls the action for hearing or Trial.

Unless the court orders otherwise for good cause, a half-day fee shall be charged for any matter which lasts more than one (1) hour but not more than four (4) hours. A full day fee shall be charged for any matter lasting more than four (4) hours.

Court reporter fees are collectible in all matters other than criminal and juvenile matters.

Court Reporter fees for the estimated length of the hearing or Trial must be deposited prior to hearing or Trial in either the civil division, Historic Courthouse, 1st Floor, or in the criminal division, Criminal Courts Building, 1st Floor. For mailing, send to the Napa Superior Court, 825 Brown Street, or 1111 Third Street, Napa, CA 94559.

For any hearing estimated to last more than one (1) hour but not more than four (4) hours, each party shall deposit their pro-rata share of \$225.00, or for any hearing estimated to last more than four (4) hours, each party shall deposit their pro-rata of share \$450.00.

If, for whatever reason (fee waiver/governmental agency), one side is not required to post fees, the other side(s) shall still be responsible for its pro-rata share. Any delay in payment or deviation from above procedures shall immediately be referred to the trial judge for resolution. (Effective 7/1/03)

2.15 Court Reporting Services

All matters required by law to be reported shall be reported. All other matters shall be reported at the request of the court or the parties, subject to the availability of an official court reporter. If an official court reporter is not available and a party wishes the matter to be reported, the party shall be required to arrange for the attendance of a pro tem reporter. It will be that party's responsibility to pay the reporter's fee. See California Rules of Court 2.956. (Effective 7/1/04; revised 1/1/06; revised 1/1/07)

2.16 Audio and Video Recording and Transmission

Audio and video recording and transmission is permitted only inside a courtroom, and only when authorized by the judicial officer presiding in that courtroom. Audio and video recording and transmission is forbidden anywhere else within any courthouse, unless authorized in writing by the presiding judge. (Effective 7/1/06)

RULE 3: DOCUMENTS PRESENTED FOR FILING

3.1 Form and Filing of Documents, Generally

All documents filed with the court must conform to the rules established by the Judicial Council. Refer to California Rules of Court, rules 2.100-2.119 and 3.1110-3.1116, for form and format of documents presented for filing. Unless otherwise ordered or specifically provided by law, all moving and supporting papers filed with the court in civil cases must be in conformance with California Code of Civil Procedure section 1005. The court, in its discretion, may refuse to consider any paper not filed in conformance with this rule.

The Napa Superior Court specifically exempts motions filed in criminal cases from the requirements of Code of Civil Procedure section 1005. In criminal cases only, the court will accept moving papers ten (10) calendar days before the date set for hearing, opposition five (5) calendar days before the hearing, and reply papers two (2) court days before the hearing.

All California citations must be to the Official Reports. Parallel citations may be included. A copy of authority from other jurisdictions (except for federal authority) must be attached to the document. Unpublished or depublished cases may not be cited, and the court will treat any argument relying upon such citations as unsupported. (Effective 7/1/02; revised 1/1/07)

3.2 Use of Judicial Council and Napa County Forms

The court requires the use of Judicial Council forms adopted for mandatory use and encourages the use of Judicial Council optional forms. Parties are also required to use all forms adopted for mandatory use by the Napa County Superior Court. The clerk will not accept for filing any form, document, or pleading which is not in compliance with these rules. (Effective 7/1/93; revised 7/1/04)

3.3 Proof of Service

If no proof of service is filed with the court prior to the time set for hearing, the matter may be taken off calendar. (Effective 7/1/02; renumbered 1/1/06)

3.4 Endorsing Copies

The Court Executive Officer will endorse a maximum of two (2) copies of any filed document at the time of filing. Additional copies will be provided by photocopying and the standard fee for copies will be charged. (Effective 7/1/02; renumbered 1/1/06; renumbered 7/1/08)

3.5 Prepaid, Pre-Addressed Envelopes Required

A pre-addressed envelope with sufficient postage affixed is required for the mailed return of all documents submitted for endorsement. Copies submitted for endorsement without an envelope

will be placed in the attorneys' "will-call box" in the clerk's office. Endorsed items not picked up may be destroyed. (Effective 7/1/02; renumbered 1/1/06; revised 7/1/07; renumbered 7/1/08)

3.6 Time and Date Must be Shown

When the date of the hearing for any law and motion matter is known, all papers filed for consideration at the hearing shall contain the hearing date, time, and the department, if known, below the action number. Failure to comply with these rules may result in documents not being before the court at the time of the hearing. (Effective 7/1/93; renumbered 1/1/06; renumbered 7/1/08)

3.7 Requests for Judicial Notice

Requests for Judicial Notice must include copies of the item(s) to be noticed. Alternatively, the party requesting judicial notice must arrange for the item(s) to be before the court at the time of the hearing. If request is made for judicial notice of a specific court document, the request shall specify the exact title of the document and the date the document was filed. A copy of authority from another jurisdiction, except for federal authority, must be attached to the Request for Judicial Notice. (Effective 1/1/99; revised 7/1/05; renumbered 1/1/06; renumbered 7/1/08)

3.8 Filing Documents in Matters Set on Shortened Time

Unless otherwise ordered by the court, for all matters set on shortened time, the last paper filed must be filed no later than 9:00 a.m. two (2) court days before the matter is scheduled to be heard by the court. (Effective 7/1/02; renumbered 1/1/06; renumbered 7/1/08)

3.9 Redaction of Social Security Numbers

In the interest of protecting the privacy rights of litigants, the court will not accept for filing documents containing the social security number of a party or other person. It is the responsibility of the party or attorney to redact the social security number from any document presented for filing that will be available for public inspection in the court file. Documents categorized as "confidential" pursuant to any statute need not be redacted. If an individual's social security number must be included in a document, at least the first five (5) numbers shall be redacted. (Effective 7/1/03; renumbered 1/1/06; renumbered 7/1/08)

RULE 4: CRIMINAL RULES

4.1 Filing Complaints and Citations

Initial complaints must be filed with the clerk on the first floor of the Criminal Courts Building. In-custody complaints must be filed no later than 11:00 a.m. of the second court day following the defendant's arrest. All other complaints must be filed no later than two (2) court days before the date set for arraignment.

Complaints or citations presented for filing before 4:30 p.m. will be deemed filed on the date of receipt; complaints or citations received after 4:30 p.m. will be deemed filed the following court day.

Each complaint or citation that is filed with the court must be accompanied by a sealed envelope marked "Confidential Defense Discovery Materials" that contains (1) a copy of the complaint or citation, (2) all crime reports, and (3) the defendant's criminal history. There must be a separate envelope for each defendant. (Effective 7/1/02; revised 7/1/09)

4.2 Documents Necessary for a Hearing

Counsel must prepare in advance all documents necessary for any hearing, including, but not limited to, plea forms and probation orders. (Effective 7/1/02)

4.3 Motions

Unless otherwise provided by law or these rules, all motions must be in writing, and must be filed and served no later than ten (10) calendar days prior to the hearing. Responsive pleadings must be filed and served no later than five (5) calendar days prior to the hearing. Reply papers must be filed and served no later than two (2) court days prior to the hearing. (Effective 7/1/02)

4.4 *In Limine* Motions

All *in limine* motions must be in writing. They must be filed and served at or before the Readiness Conference. (Effective 7/1/02; revised and renumbered 1/1/06; revised 7/1/06)

4.5 Jury Instructions and Verdict Forms

Jury instructions and verdict forms must be submitted on the first day of Trial. (Effective 7/1/02; renumbered 1/1/06)

4.6 Stipulations and Orders

Any stipulation between the parties that results in a court date being scheduled must be presented to the court with a proposed order at least two (2) court days before the agreed upon court date in the stipulation. Stipulations that are presented without a proposed order will not be accepted for processing. (Effective 7/1/09)

4.7 Effective Date of Filing

All documents presented for filing by 4:30 p.m. will be deemed filed the date of receipt; all documents received after 4:30 p.m. will be deemed filed the following court day. (Effective 7/1/09)

RULE 5: TRAFFIC INFRACTION TRIALS

5.1 Trial by Written Declaration

The court, pursuant to this rule, adopts the trial by declaration process, defined in Vehicle Code section 40902. In addition, pursuant to Vehicle Code section 40903, any person who fails to appear at Trial as provided by law may be deemed to have elected to have a Trial by written declaration. (Effective 7/1/93)

5.2 Traffic and Engineering Surveys

The court takes judicial notice of all surveys lodged with the court. Upon request, the certified survey shall be produced by the court for inspection by the defendant. (Effective 1/1/99)

RULE 6: CIVIL RULES

6.1 Case Management Conference

The Case Management Conference provided by rule 6.6.1 will be noticed no sooner than 120 days and no later than 180 days after the filing of the original complaint. (Effective 7/1/02)

6.2 Trial Management Conference

Trial Management Conferences are generally held the last court day of the week preceding the week in which the jury will be selected or, in a court trial, the first witness called. The case will be assigned to a Trial judge at the Trial Management Conference. This assignment is deemed the assignment from the master calendar. The Trial Management Conference is deemed to be the commencement of Trial for all purposes, including discovery and motion cutoff, disclosure of witnesses and expert witnesses, and commencement of all trial-related fees, such as jury and court reporter fees. All *in limine* motions will be heard at the Trial Management Conference and the court will attend to all other trial management issues to facilitate expeditious commencement of Trial. (Effective 7/1/02; revised 1/1/06)

6.3 Short Cause Trials

Short cause cases shall be assigned a date certain at the time of the Case Management Conference. Counsel must be prepared for Trial on the date set. No continuances will be granted except upon a showing of good cause by a timely noticed motion. Stipulations to continue between counsel will not be construed as good cause. (Effective 7/1/02)

6.4 Long Cause Trials

Long cause cases shall be assigned a date certain at the time of the Case Management Conference. Counsel must be prepared for Trial on the date set. No continuances will be granted except upon a showing of good cause by a timely noticed motion. Stipulations to continue between counsel will not be construed as good cause. (Effective 7/1/02; revised 7/1/03)

6.5 Trial Procedures

All exhibits, except for those used solely for impeachment purposes, must be exchanged between counsel no later than five (5) court days prior to the Trial Management Conference.

Unless otherwise ordered by the court, all exhibits the parties intend to introduce at the Trial, except those to be solely used for impeachment purposes, must be pre-labeled by counsel and lodged with the Napa Superior Court no later than the date of the Trial Management Conference; exhibits may be submitted as early as three (3) days before the Trial Management Conference. Pre-labeling consists of placing the exhibit tag on the exhibit with the case number written on the bottom center of the tag. Plaintiff must use yellow tags designated "Plaintiff". Defendant must use blue tags and designated "Defendant". Exhibits are **not** to be marked by number or letter.

All motions *in limine* must be in writing and filed with the clerk of the court no later than ten (10) court days prior to the Trial Management Conference. Oppositions to motions *in limine* shall be filed at least five (5) court days before the Trial Management Conference. The court shall have the discretion to strike (*i.e.*, not consider) late-filed motions and oppositions. No oral motions *in limine* will be considered by the court.

The parties are ordered to lodge with the clerk of the court all jury instructions they intend to request no later than the Trial Management Conference. The jury instructions must be completed with all blanks filled in and all bracketed portions either stricken or the brackets eliminated.

If the case settles in its entirety either the week or two (2) weeks prior to Trial, both the Trial Management Conference and the Trial SHALL REMAIN on calendar unless dismissals or judgments are on file disposing of the entire case. Appearances are mandatory for all counsel. If dismissals and/or judgments are filed prior to the Trial Management Conference disposing of the entire case, both the Trial Management Conference and the Trial date shall be vacated.

If a case settles in its entirety prior to the two (2) weeks prior to Trial, upon advisement by fax or letter or pleading, all pretrial and Trial dates will be vacated and the matter will be set for an Order to Show Cause re Dismissal. Upon receipt of all dismissals and/or judgments disposing of all parties, the Order to Show Cause re Dismissal shall be vacated.

Upon completion of Trial, all exhibits shall be immediately returned to the offering party. Counsel must be prepared to assume total responsibility and custody of any exhibit offered or received in evidence at the conclusion of Trial. Custody of all exhibits must be retained and be made readily available to the court within the following limits:

1. Until 90 days following judgment if no appeal is filed.
2. If an appeal is filed, until 30 days following the date of filing remittitur, assuming the judgment is affirmed.
3. If an appeal is filed and the judgment is reversed or otherwise requires further rehearing, until resolution of the matter. (Effective 7/1/02; revised 7/1/04)

6.6 Administration of Civil Litigation

6.6.1 Service of Complaint

Upon the filing of a Complaint, the plaintiff shall receive the following from the clerk for service upon the parties:

1. Notice of Case Management Conference indicating the courtroom, date, and time of conference. The Case Management Conference will be set within 180 days of the filing date of the original Complaint. The court may continue this date if necessary to comply with Government Code section 68616.

2. An ADR Information Packet.

- A. Forms with Summons and Complaint and Return of Proof of Service.** The plaintiff shall serve the Summons and Complaint, which must be served together with a Notice of the Case Management Conference and the ADR Information Packet promptly after the pleading is filed. Proof of service shall be filed with the court within ten (10) days of this service. The ADR packet need not be served on any defendant in any civil action brought by the District Attorney or the Attorney General in the name of the People of the State of California.
- B. New Parties in Cross-Complaint.** If a Cross-Complaint names new parties, the cross-complainant shall serve copies of the Notice of Case Management Conference and the ADR Information Packet on the new parties at the same time that the Cross-Complaint is served. (Effective 7/1/02)

6.6.2 Mandatory Settlement Conferences

In addition to requirements of California Rules of Court, rule 3.1380(c), each party shall submit to the court and serve on each other a Settlement Conference Statement that must include a statement of the factual and legal contentions in dispute, a list of all special damages claimed, copies of pertinent medical reports, and other pictorial or documentary evidence pertinent to settlement, the highest previous offer and the lowest previous demand, the date when the last face-to-face or telephonic settlement discussion was held between all parties, and a statement as to any special problems relating to settlement such as lack of or disputed insurance coverage.

It is the policy of the court to encourage settlements at any stage of the proceedings and the civil master calendar judge may, at the request of a party to the action, set a cause for a Voluntary Settlement Conference on any date convenient to the court and counsel. (Effective 7/1/02; revised 1/1/06; revised 1/1/07)

6.6.3 Cases Stayed Under California Rule of Court 3.650(d)

Once notification is received regarding said stay, the court shall issue an Order to Show Cause re Removed Case with a review date approximately 180 days from the date of notification. (Effective 7/1/02)

6.6.4 Dismissal of Action or Entry of Judgment Following Settlement

If a case settles in its entirety within two (2) weeks prior to Trial, both the Trial Management Conference and the Trial SHALL REMAIN on calendar unless dismissals or judgment are on

file disposing of the entire case. Appearances are mandatory for all counsel. If dismissals and/or judgment are filed prior to the Trial Management Conference disposing of the entire case, both the Trial Management Conference and the Trial date shall be vacated.

Following settlement of the action, the court will set a date by which the action shall be dismissed or judgment entered. In the event the parties do not comply with the court's order in this regard, the court, on its own motion will dismiss the action or enter judgment effective as of the date set for dismissal or entry of judgment.

If a case settles in its entirety more than two (2) weeks prior to Trial, upon advisement by fax or letter or pleading, all pretrial and Trial dates will be vacated and the matter will be set for an Order to Show Cause re Dismissal. Upon receipt of all dismissals and/or judgments disposing of all parties, the Order to Show Cause re Dismissal shall be vacated. (Effective 7/1/02)

6.7 Requests for Continuance to be Signed by Parties – Mandatory Form

All requests for extension of time or continuances of trial must be supported by good cause shown, must be signed by counsel and signed by the party, acknowledging the party concurs with the request.

Any request for extension of time to file a document must be presented on Napa Superior Court's mandatory form, available on the court's website at <http://www.napa.courts.ca.gov>.

If a request to continue trial is presented in the form of a stipulation and order and not by noticed motion, a supporting declaration must be submitted that includes the following information: the reasons for the requested continuance, the number of previous continuances, whether the case is a Delay Reduction case, when the complaint was filed, whether the case has been declared protracted, and any additional information that the parties believe will assist the judge in evaluating the request. (Effective 7/1/02; revised 7/1/03; revised and renumbered 1/1/06)

6.8 Uninsured Motorist Cases

An action for personal injury or property damage against an uninsured defendant may be designated an "uninsured motorist case" upon application of the plaintiff filed within 30 days of the commencement of the action. Upon the filing of such an application, the court will set a hearing date 180 days from the date of the designation, to allow for arbitration pursuant to Government Code section 68609.5. At the hearing, the action will be dismissed (without prejudice) unless the court, for good cause, extends the time for resolution of the case. (Effective 7/1/02; revised 7/1/03; renumbered 1/1/06)

6.9 Communication With Court Staff

Neither the parties nor their counsel shall initiate communications with the research attorney staff, but shall promptly respond to inquiries directed to them by staff members. (Effective 7/1/03; renumbered 1/1/06)

6.10 Hearings Exceeding 15 Minutes

If any hearing on a regularly noticed motion exceeds 15 minutes, the court shall have the authority to continue said hearing to a different date when the court has adequate time to hear extended argument. (Effective 7/1/03; renumbered 1/1/06)

6.11 Attorney Fees in Default Proceedings

- A. Limited and Unlimited Jurisdiction Defaults.** Whenever the obligation sued upon provides for the recovery of attorney fees, the fee in each default civil case, whether unlimited or limited jurisdiction (and excluding unlawful detainers) shall be fixed pursuant to the following schedule:

\$300 Minimum
20 percent up to \$5,000
15 percent of next \$10,000
10 percent of next \$25,000
5 percent above \$40,000

Any party seeking attorney fees in excess of those provided for herein shall submit a declaration to the court, substantiating the extraordinary fees.

- B. Unlawful Detainers.** For default unlawful detainer actions, the minimum attorney fees shall be \$300. Any party seeking attorney fees in excess of those provided for herein shall submit a declaration for submission to the court, substantiating the extraordinary fees. (Effective 7/1/03; renumbered 1/1/06)

6.12 Requests for Extension of Time to File – Mandatory Form

A party requesting an extension of time to file a Return of Summons, Responsive Pleading, Default Judgment, or any other required pleading shall submit a Request for Extension of Time to File, using Napa Superior Court's mandatory form, located on the court's website at <http://www.napa.courts.ca.gov>. Note that the party is required to sign the form. (Effective 7/1/08)

RULE 7: FAMILY LAW PROCEEDINGS

7.1 Scope

Family law matters include all matters related to the Family Law Act, Uniform Parentage Act, the Domestic Violence Prevention Act, the Uniform Child Custody Jurisdiction Act, and guardianships. The family law division manages cases pursuant to Family Code sections 2450-2452. (Effective 7/1/02)

7.2 Service and Filing

All documents filed with the court must comply with rule 3. (Effective 7/1/02)

7.3 Declarations

All supporting and opposing declarations shall be made on personal knowledge, shall set forth admissible evidence, and shall show affirmatively that the declarant is entitled to the relief requested and is competent to testify to the matters stated therein.

Unless excused by law, parties must file completed Income and Expense and Property Declarations, along with all necessary supporting documents, five (5) calendar days prior to Trial or any hearing at which the court must determine issues to which such declarations would be relevant. The parties must exchange their most recent tax returns at least five (5) calendar days before Trial or hearing, unless otherwise ordered by the court. (Effective 7/1/02; revised 7/1/07; revised 7/1/08)

7.4 Proof of Service

Proof of timely service should be filed with the clerk no later than five (5) days before the date set for hearing. Parties should retain a file-stamped copy of the proof of service to show the court in the event the original has not yet been placed in the court file. In the event no proof of service is filed with the court prior to the date set for hearing, the matter may be taken off calendar.

All parties shall comply with the provisions of Family Code section 215, requiring service upon a party after entry of a final judgment of dissolution. Mail service upon a party is sufficient. (Effective 7/1/07)

7.5 Family Law Case Management

It is the policy of the Napa Superior Court that all family law cases initiated will be managed so as to expedite the resolution of the case, reduce the cost of litigation, and focus on early settlement. These rules relating to the administration of family law actions involving apply to all actions for dissolution, nullity, legal separation of spouses in a marriage or partners in a domestic partnership, actions to establish parental relationship, and such other cases assigned to the program by the family law judge filed after January 1, 2007. (Effective 7/1/07; revised 7/1/08)

7.5.1 Firm Dates

It is the policy of the court that once any date has been set, it cannot be changed without a showing of good cause. However, if the parties are participating in mediation, collaboration, or other alternative dispute resolution at the time of the Family Law Case Management Conference and wish to continue settlement efforts before coming to court, they may file a stipulation, signed by both parties, informing the court and requesting a continuance of the Family Law Case Management Conference for a period up to 120 days. (Effective 7/1/07)

7.5.2 Forms to be Issued by Clerk Upon Filing of Petition

Upon the filing of a case subject to Family Law Case Management, the petitioner shall receive two (2) copies of each of the following documents, one (1) of each to be served by petitioner upon the respondent:

- A. **Guide to Case Management.** This document provides a quick summary of the steps necessary for completing the Family Law Case Management Program. It also provides the dates by which the parties must serve/file required documents (*i.e.*, Proof of Service, Request for Default or Response, and Proof of Financial Disclosures).
- B. **Blank Case Management Conference Report.** This document can be completed by the petitioner and respondent separately or jointly. It must be filed five (5) days prior to the Family Law Case Management Conference. The parties shall use the Napa Superior Court's mandatory Case Management Conference Report, available on the court's website at <http://www.napa.courts.ca.gov>.
- C. **Notice of Family Law Case Management.** This document provides the parties with notice of the date, time, and location of their Family Law Case Management Conference. It also reiterates the dates by which requisite documents must be served/filed. (Effective 7/1/07, revised 7/1/08)

7.5.3 Service of Summons and Petition -- Forms to be Served on Other Party

The petitioner shall serve the following documents on the opposing party:

- A. Summons, Petition, and, if applicable, petitioner's completed Declaration Under Uniform Child Custody Jurisdiction Enforcement Act.
- B. Guide to Case Management.
- C. Blank mandatory Case Management Conference Report.
- D. Notice of Family Law Case Management. (Effective 7/1/07; revised 7/1/08)

7.5.4 Family Law Case Management Conferences

- A. Calendar. The first Family Law Case Management Conference shall be held on the first Tuesday of the month at least 120 days after the filing of the Petition unless a judgment resolving all issues has been entered prior to the Family Law Case Management Conference.
- B. Service of Case Management Conference Report. Each party must file and serve a Case Management Conference Report (or jointly file one report) at least five (5) days prior to the Family Law Case Management Conference.
- C. Purpose. At the first Family Law Case Management Conference, the court will review the status of the case, discovery plans, settlement options, alternative dispute resolution, and unresolved issues. At this or any Family Law Case Management Conference, the court may:
 - 1. Set a Settlement Conference;
 - 2. Set or reset the time of Trials, Settlement Conferences, or hearings;
 - 3. Limit, schedule, or discuss discovery;
 - 4. Schedule disclosure of expert witnesses;
 - 5. Bifurcate issues for Trial;
 - 6. Appoint court experts upon stipulation and allocate the expenses for the appointments, or schedule a hearing for appointments of court experts and the allocation of the expenses for the experts;
 - 7. Appoint an attorney for a minor child;
 - 8. Refer appropriate cases to some form of alternative dispute resolution;
 - 9. Require filing of preliminary stipulations, if issues can be narrowed;
 - 10. Make special references in accordance with law;
 - 11. Review case management options under Family Code section 2451;
 - 12. Take such other actions as permitted by law which would tend to promote a just and efficient disposition of the case;

13. Schedule further Family Law Case Management Conferences as needed in the case;
14. Order the parties to participate in an early neutral evaluation concerning their case;
15. Refer the parties to Family Court Services for custody and visitation mediation; or
16. Enter judgment. (Effective 7/1/07; revised and renumbered 7/1/08)

7.6 Declarations Required in Ex Parte Requests for Temporary Restraining Orders

Declarations submitted to the court with a request for an ex parte temporary restraining order must specifically include the date(s) of the incidents, a description of the facts in detail, and the specific harm caused or threatened upon which the party is seeking extraordinary relief. Conclusions, feelings, wishes, or fears will not adequately support an ex parte order. (Effective 7/1/02; renumbered 7/1/07)

7.6.1 Conditions for Issuance of Ex Parte Orders

The applicant must state why a noticed hearing or a hearing on shortened time is not sufficient for the relief requested. Declarations in support of the application must be based on the declarant's personal knowledge. The declaration must in itself be adequate and supported by admissible evidence to warrant the relief requested. It cannot contain hearsay statements of persons other than the declarant, and it cannot be augmented by oral statements to the court.

The party requesting ex parte orders must inform the judge if the opposing party is represented by counsel or is self-represented.

Reasonable notice must be provided to all opposing parties or their counsel, if represented by counsel. Notice of the hearing by telephone, fax, or personal delivery must be given by 10:00 a.m. one (1) court day before the hearing. Service by mail is allowed only when notice by telephone, fax, or personal delivery is not possible; notice must be mailed to allow for delivery at least one (1) court day before the hearing. Notice may be excused if it would frustrate the very purpose of the order and lead the applicant to suffer immediate and irreparable injury.

Notice must include the date and time the application will be made, and the nature of the relief sought. **THERE IS AN ABSOLUTE DUTY TO DISCLOSE THE FACT THAT A REQUESTED EX PARTE ORDER WILL RESULT IN A CHANGE OF STATUS QUO.**

If the opposing party has retained counsel, the moving party must inform the judge of the name, address, and telephone number of opposing counsel and whether or not reasonable notice has been given to opposing counsel so that opposing counsel may have the opportunity to oppose the application.

If the moving party does not appear within 15 minutes of the scheduled time, the opposing party will be released and the application denied. (Effective 7/1/02; revised and renumbered 7/1/07; revised 7/1/08)

7.6.2 Exceptions to Notice and Declaration Requirements

Ex parte orders may only be obtained without notice and supporting declarations in cases of domestic violence and if it appears from the declaration in support of the application that great or irreparable harm would result to the applicant before the matter may be heard if notice is given, or that giving notice would defeat the purpose of the application. (Effective 7/1/02; renumbered 7/1/07)

7.6.3 Exclusive Use of a Vehicle

No ex parte order will be granted giving one party the exclusive use of a vehicle unless the declaration demonstrates that the opposing party has suitable transportation available or requires no such transportation, or for other good cause. (Effective 7/1/02; renumbered 7/1/07)

7.6.4 Removal From a Residence

No ex parte order will be granted removing a party from a residence except in cases of domestic violence where the moving party's declaration sets forth facts required by Family Code section 6321. (Effective 7/1/02; renumbered 7/1/07)

7.6.5 Modified Orders

If the court modifies any requested order, it will be the responsibility of the applicant or attorney to conform all copies with the changes before filing and service. (Effective 7/1/02; renumbered 7/1/07)

7.6.6 Setting Aside Ex Parte Orders

If a responding party requests that an ex parte order be set aside prior to the date set for hearing, notice must be given to the moving party in accordance with rule 7.6.1. The court may order an earlier hearing date or modify the orders on a proper showing in lieu of setting aside the orders. (Effective 7/1/02; revised and renumbered 7/1/07)

7.7 Procedures for Document Signature

All emergency court orders must be reviewed by the clerk to determine compliance with these rules, and only after being initialed by a clerk will be submitted to the court for the judge's approval and signature.

All other documents and court orders shall be delivered and filed with the clerk for review and submission to the court for the judge's signature. All orders and judgments prepared by counsel after hearing or Trial shall be submitted to opposing counsel for approval as to form and content prior to submission to the court for the judge's signature. (Effective 7/1/02; revised and renumbered 7/1/07)

7.8 Family Law Calendar

All family law matters in which at least one party is represented by counsel are calendared in the master family law department, except child support enforcement. Family law matters in which both parties are self-represented are heard separately on the family law self-represented calendar.

Counsel and the parties must be prepared to proceed at the time of hearing. Unless the issues have been resolved or both parties stipulate to a continuance, the court will assign all matters to a department on a date and time certain within that calendar week. Counsel or self-represented parties shall state their names, appearances, whether moving or responding, and an accurate time estimate for the hearing on the matter of issues not agreed upon, including preliminary statements, testimony, and closing comments.

The court will grant priority, where possible, to matters where special circumstances exist (*e.g.*, out-of-town counsel or parties, witnesses under subpoena or present in court). Normally the court will not assign matters for hearing prior to 9:30 a.m. on the date calendared for hearing and will allow counsel for the parties to confer and exhaust settlement discussions prior to assigning the matter for hearing. At the calendar call, the court will give preference to stipulations, requests for continuances, and uncontested matters. Matters set for hearing on the master calendar will not be continued without good cause. (Effective 7/1/02; revised and renumbered 7/1/07)

7.8.1 Family Law – Guardianship and Law and Motion Hearings

Guardianships, as well as law and motion relating to family law matters, are generally set on the master family law calendar. (Effective 7/1/07)

7.8.2 Conflict With Other Court Appearance

It is the responsibility of counsel to make suitable arrangements in the event of calendar conflicts. Counsel are expected to arrange for coverage or to arrange continuances with the court and all parties or counsel for parties in the event of calendar conflicts. (Effective 7/1/02; renumbered 7/1/07)

7.9 Setting Matters (Short Cause/Long Cause)

Ten (10) days after the filing of an At-Issue Memorandum with a Trial time estimate of less than five (5) hours, the court will send out a notice informing the parties of the Trial date.

Those Trials with time estimates greater than five (5) hours will be set in the same manner as civil trials. (Effective 7/1/02; revised 7/1/04; renumbered 7/1/07)

7.10 Matters Taken Off Calendar

After service of the moving papers, no matter shall be taken off calendar without notice to the responding party or attorney and the court. The moving parties or their attorneys must notify the civil division immediately by telephone in the event the matter will not proceed to hearing. This notification should be followed by a written transmittal signed by the party and/or the attorney confirming that the matter is to be taken off calendar with a copy to opposing counsel. (Effective 7/1/93; revised and renumbered 7/1/07)

7.11 Continuances

Once an order to show cause or motion has been set for hearing, the court may grant a continuance if the parties file, prior to the hearing, a written stipulation signed by both counsel (or self-represented parties). Once a matter is called for hearing, continuances will be granted only upon a showing of good cause. Continuances of Trial (whether long or short cause) will only be granted on a noticed motion to continue showing of good cause. (Effective 7/1/02; revised and renumbered 7/1/07; revised 7/1/08)

7.12 Unserved Orders to Show Cause

If an Order to Show Cause cannot be timely served, the parties should use the current Judicial Council form, "Application for Order and Reissuance of Order to Show Cause". They must also attach an endorsed copy of the unserved Order to Show Cause to the Application. (Effective 7/1/02; revised 1/1/07; renumbered 7/1/07)

7.13 Orders Shortening and Extending Time

An order shortening time for service or extending the duration of ex parte orders will not be granted unless supported by a declaration demonstrating good cause. If an order shortening time for service is requested, the supporting declaration must state whether or not the responding party is represented by counsel, the name and address of the responding party's attorney, and whether or not that attorney has been contacted and has agreed to the date and time proposed for the hearing. If the responding party's attorney has not been contacted or has not agreed to the proposed setting, the supporting declaration must clearly demonstrate why the hearing should be set on the proposed date without the consent of the opposing counsel. Provision for immediate delivery of the pleading to opposing counsel's office should be set forth in the order.

A declaration in support of an order shortening time for service must show emergency circumstances. However, if the application only seeks to shorten time for service of moving papers by a respondent seeking affirmative relief at a hearing already set, emergency circumstances need not be shown.

Anticipated problems in serving a responding party will not be sufficient basis for an order shortening time for service. (Effective 7/1/02; revised and renumbered 7/1/07)

7.14 Hearings - General

- A. **Presence of Parties and Attorneys.** If a party or attorney cannot personally appear because of illness, extreme economic hardship, or other good cause, that party or his or her attorney must immediately contact the other party and every reasonable effort shall be made to continue the hearing. In the absence of a negotiated continuance or settlement, the party must file a declaration detailing the communication or attempted negotiations with the other party and a request for a reasonable continuance.
- B. **Failure to Appear.** Failure of the moving party or attorney to be present at the calendar call or to have informed the clerk of his or her presence shall result in the matter being removed from the calendar, and if the responding party has appeared, attorney fees and costs may be awarded to the appearing party. In the event the responding party fails to appear, the court may continue the matter and award attorney fees or enter an order on the pleading and testimony of the moving party.
- C. **Tardiness.** If for any reason an attorney or client is unable to be present at the time of the calendar call, the court and opposing party must be notified immediately by telephone of the reasons for, and the extent of, such delay.
- D. **Pre-hearing Settlement Efforts.** No case on the family law calendar will be heard unless and until counsel, with their respective clients either physically present or immediately physically available, have met and conferred in a good faith effort to resolve all issues. All relevant documents shall be exchanged by counsel while conferring absent good cause to the contrary. Failure to so meet and confer may result in the matter being dropped from calendar or continued, or rejection of documents not so exchanged, or other appropriate sanctions.

When the attorneys have informed the court that they are conducting settlement discussions, the matter will remain on calendar until heard, continued, or otherwise disposed of.

Counsel for the moving party is expected to contact opposing counsel in advance of the hearing to ascertain whether or not the issues can be settled without a contested hearing. Failure to make such contact and conduct settlement in good faith may have a bearing on attorney fees to be awarded and/or sanctions to be imposed.

Copies of all documents intended to be offered as part of the case in chief must be provided to opposing parties prior to the court hearing so that meaningful settlement discussions can occur. An exception applies if a document clearly and

substantially impeaches the veracity of a party or witness and is to be offered for that purpose.

- E. Calling the Case.** All matters may be heard on the date originally calendared or may be set for Trial or hearing in one of the departments of the court during that same calendar week. In the event a matter cannot be heard because of the unavailability of court time for hearing, it will be continued to a Monday calendar for hearing or may be assigned a special setting at some future date.

At the hearing, moving party's attorney will be asked to state the issues. The responding party will be asked to concur in moving party's statement of issues and to state any additional issues. Attorneys are expected to be thoroughly prepared to answer the questions of the court concerning the facts of the case and cite applicable statutory and case law if an unusual or contested point of law is involved. Sworn oral testimony of the parties normally will be allowed. However, the court in its discretion may take offers of proof and/or submit the matters on declarations.

- F. Telephonic Appearances -- Child Support Hearings.** Telephonic appearances in Title IV-D child support hearings and conferences will be permitted as set forth in California Rules of Court, rule 5.324. Anyone wishing to appear by telephone must comply with the provisions contained in California Rules of Court, rule 5.324.

- G. Income & Expense Declarations.** Both parties must serve and file current Income and Expense Declarations and Property Declarations five (5) calendar days before the date of Trial or any hearing at which the court must determine any issues to which such declarations would be relevant. (Effective 7/1/02; subd. F effective 7/1/06; relettered 7/1/06; revised 7/1/08)

7.15 Preparation of Order After Hearing

Unless otherwise ordered by the court, the moving party must, within ten (10) days following the court's ruling, prepare a written order following any hearing on the family law calendar.

The preparing party must serve the order upon the responding party and the responding party must, within ten (10) days from receipt, approve the order, or refuse to approve the order stating the alternative proposed language.

If the responding party fails to approve or object to the order within ten (10) days of receipt, the moving party then may mail the order to the hearing judge for signature, accompanied by a letter (with a copy to the responding party) stating that the order was mailed to the responding party on a certain date, the circumstances surrounding the failure to sign, and requesting the judge to sign it.

If the preparing party fails to prepare and mail the order as required, then the responding party may prepare the proposed order and mail it directly to the hearing judge without seeking the approval of

opposing counsel, along with a letter to the hearing judge (with a copy to the opposing party) setting forth the applicable dates according to this rule, and requesting the judge to sign it.

If there is a disagreement between the parties concerning the accuracy of the prepared order, then either party may request the court to compel entry of the order and refer the court to applicable portions of the hearing transcript.

Attorney fees and costs, including costs of preparing the reporter's transcript, may be awarded depending upon the merits. (Effective 7/1/02)

7.16 Contempt

After a contempt hearing, it is the responsibility of the moving party to prepare an order for the signature of the judge, setting forth the findings and orders of the court. The party or attorney preparing the order after hearing must set forth all findings of the court: factual findings of the existence and current validity of a described order, knowledge of the contemnor of that order, ability to comply with the order, the violation of that order, and the willfulness of that violation. Thereafter, there shall be set forth the orders of the court with regard to the finding of contempt and the sentencing. No contempt order will be signed by the court without compliance with the foregoing.

After a finding of contempt and a sentencing thereon, no stay of execution will be granted. Counsel are expected to advise their clients of this fact in advance of the court hearing. (Effective 7/1/02)

7.17 Settlement Conferences

7.17.1 Settlement Conference --Voluntary

Upon request of any party, a Settlement Conference may be held in a long cause family law case within 30 days before Trial, or at such other time as the court may direct. Each party and the attorney for each party must personally attend the Settlement Conference unless specifically excused by the court. (Effective 7/1/02)

7.17.2 Discovery

Discovery must be completed not later than five (5) court days prior to the Settlement Conference, except upon order of court for good cause. (Effective 7/1/02)

7.17.3 Settlement Conference Statements

- A. Time Requirements.** At least five (5) days before the Settlement Conference or ten (10) calendar days before if service is by mail, each party must prepare, file, and serve on the other party a Settlement Conference Statement as set forth below.

B. Contents.

1. Caption. The caption shall contain times and dates of the Settlement Conference and Trial.

2. Income and Expenses. In all cases where support is in issue, a current signed and dated Income and Expense Declaration (Family Law) shall be prepared on the mandatory Judicial Council form. In addition, all income and other financial information as required by rule 7.21 shall be attached.

C. Community Property (Assets & Liabilities). In all cases where property issues (characterization, division, and/or valuation) are unresolved, each party must prepare a comprehensive inventory of all assets (real and personal) and liabilities claimed by the parties to be community property and/or community debt. This inventory can either be typed on applicable Judicial Council forms, or may be prepared in any form which contains substantially the same information as set forth on the Judicial Council forms.

The parties must attach copies of the completed inventory assets and liabilities forms indicating their claim to values and proposal for division of the property to their Settlement Conference Statements.

In all cases where the characterization of real or personal property of the parties (whether community or separate) or reimbursement for contributions to the community from a separate property source is in issue, the parties must set forth all of the facts upon which their claims are based and cite appropriate legal authorities for each of those claims. (Effective 7/1/02; revised 1/1/07)

7.18 Trial Exhibits

See Local Rule 6.5, "Trial Procedures". (Effective 7/1/02)

7.19 Child Custody and Visitation

7.19.1 Ex Parte Orders Changing the Status Quo Regarding Custody and Visitation

The family law court will not grant ex parte orders changing the status quo of visitation and/or custody of the child unless there is a very strong factual showing of grave danger or severe detriment. In the absence of grave danger or severe detriment, custody and visitation matters must be properly set on the order to show cause calendar or noticed for hearing with both parties present and afforded the opportunity to be heard. The provisions of rule 7.6 governing ex parte orders apply to this section.

The court refers disputes relating to custody and visitation to Family Court Services. (Effective 7/1/93)

7.19.2 Temporary Custody and Visitation Orders

- A.** All temporary custody and visitation matters where one or more of the parties are represented will be heard or assigned by the court each Monday morning at 8:30 a.m. Temporary custody and visitation matters where both parties are self-represented will be heard or assigned each Wednesday morning at 8:30 a.m.
- B.** At the hearing, the court may refer the parties to Family Court Services to schedule parent orientation/education or a mediation appointment.
- C.** In cases heard on the master family law calendar, family law self-represented calendar, and domestic violence/TRO calendar, where the court determines that there is an urgent need for mediation, the parties may be referred for emergency mediation. These sessions are limited in time and focus on the single issue identified by the court. (Effective 1/1/99; revised 7/1/07)

7.19.3 Default Judgments

When a judgment is taken by default and there is an attached written agreement between the parties concerning custody and visitation, an attached factual declaration must set forth the following:

- 1. Where the party is seeking joint custody, what specified contact with the child the defaulting party will have.
- 2. Where the party is seeking to deny visitation between the child and the defaulting party, the reasons visitation should not be ordered.

In preparing the declaration, the party must inform the court when the parties were separated, who has been the primary caretaker of the child during the past six (6) months, and the extent of contact between the child and the non-caretaker parent during that time. (Effective 1/1/99)

7.19.4 Appointment of Counsel for the Child

- 1. In any proceeding covered by the family law rules, the court may, if it finds it would be in the best interest of the minor child, appoint private counsel to represent the interests of the child. (Fam. Code § 3151)
- 2. When the court appoints counsel to represent the minor, counsel shall receive a reasonable sum for compensation and expenses. Compensation and expenses shall be determined by the court and paid by the parents in such proportion as the court deems just, or by the County pursuant to Family Code section 3153.

3. Nothing shall prohibit the Family Court Services counselor or Probation Department from advising the court that private counsel for the child should be appointed pursuant to Family Code sections 3114 and 3150. In making any recommendation, the Family Court Services counselor or Probation Department shall inform the court of the reasons why it would be in the minor child's best interests to have private counsel appointed. (Effective 1/1/99)

7.20 Family Court Services

7.20.1 Mediation - Custody and Visitation

In all proceedings where there is a contested issue regarding the custody of or visitation of a minor child, the matter shall be set for mediation of the contested issues pursuant to section 3107, et seq., of the Family Code and these rules. (Effective 1/1/99)

7.20.2 Mediator's Recommendations

With respect to all matters referred to Family Court Services, the mediator shall report to the court when an agreement has not been reached between the parties regarding the issues of custody and visitation. (Effective 7/1/02; renumbered 7/1/07)

7.20.3 Failure to Appear - Contempt

In the event a party fails to appear at Family Court Services at the time and date as required by these rules or orders of the court, the non-appearing party will be considered in contempt of an order of this court and may be punished by fine and imprisonment. (Effective 7/1/02; renumbered 7/1/07)

7.21 Child and Spousal Support

In all proceedings where child and/or spousal support is in issue, the parties are required (in addition to the Income and Expense Declaration) to serve on the opposing party, the following: the last three (3) pay stubs; state and federal income tax returns for the past two (2) years; any records regarding income of the parties since filing the most recent tax return; statements of income and expense and assets and liabilities regarding any entity in which the party has or had an interest within the past three (3) years; and any individual financial statements (including income and expense and assets and liabilities) prepared within three (3) years of the hearing date.

Income and Expense Declarations filed with the court must be complete. All blanks must be filled in unless inapplicable, in which case the designation "N/A" must be inserted. (Effective 7/1/02)

7.22 Family Law Facilitator

The Napa County Superior Court has established an office of family law facilitator for self-represented parties. The court will make referrals to the family law facilitator as appropriate. By

this rule, the court designates and establishes in the office of the family law facilitator all the duties prescribed or permitted by the Family Law Facilitator Act, Family Code section 10000, et seq.
(Effective 7/1/02)

RULE 8: ADOPTION PROCEEDINGS

8.1 Adoption Hearings

Adoption hearings will be scheduled at the request of petitioner or counsel on any probate court appearance calendar. All proposed reports, orders, accounting, agreements, consents, and other pleadings required by law shall be on file prior to scheduling a hearing. (Effective 1/1/99)

8.2 Access to Adoption Files

Pursuant to Family Code section 9200, applicants seeking access to adoption files shall set forth a detailed factual showing sufficient to establish good cause approaching the necessitous. Parties may use the Napa Superior Court's Petition to Inspect or Obtain Copies from a File, located on the court's website at <http://www.napa.courts.ca.gov>. (Effective 7/1/93; revised 7/1/08)

RULE 9: PROBATE

Except as otherwise specified by these rules, the procedures set out in the California Rules of Court and the Probate Code govern all probate proceedings. (Effective 7/1/02)

9.1 Probate Days

The probate calendar is heard in the civil trial department at 8:30 a.m. Monday through Friday. The probate calendar includes probate and conservatorship matters. Guardianships are heard on the family law calendar. (Effective 7/1/02)

9.2 Preparation of Orders

All motions and petitions must be accompanied by a proposed Order or Letters. (Effective 7/1/02)

9.3 Pre-Approved Probate Calendar -- See Tentative Ruling System, Local Rule 2.10

Routine, unopposed probate matters submitted by counsel and approved by a tentative ruling, with the exception of the matters listed in rule 9.4, do not require appearance by counsel. If the matter is not approved by tentative ruling, the tentative ruling will state that the court is either continuing the case for two (2) weeks for any defects to be remedied, or placing the matter on the calendar for appearance by counsel. For approved matters, the court will file the Order and/or Letters and return up to two (2) endorsed copies to counsel's courthouse folder. Counsel requiring return of endorsed copies by mail must submit a pre-addressed stamped envelope. (Effective 7/1/02)

9.4 Matters Requiring Appearance

The following probate matters require appearance of counsel or parties at the hearing:

- A. Application for appointment of conservator;
- B. Termination of conservatorship (other than by death of the conservatee);
- C. Contested matters;
- D. Other matters at the request of the court. (Effective 7/1/02)

9.5 Filing Objections -- Continuances

Objections to a matter on the probate calendar must be in writing, filed with the court, and served on counsel for petitioner at least five (5) court days before the scheduled hearing. If the attorney representing the petitioning party has not received notice of the objections and is not at the hearing, the matter will be continued for two (2) weeks. Written objections shall then be filed and served five (5) court days prior to the continued hearing date. (Effective 7/1/02; revised 7/1/03)

9.6 Costs

Costs must be itemized. However, up to a total of \$200.00 in “miscellaneous costs” for duplication or telephone calls or the like by the personal representative or the attorney may be approved without itemizing. (Effective 7/1/93)

9.7 Compensation of Attorneys, Conservators, Guardians, Trustees, and Requests for Extraordinary Fees

- A.** No compensation for conservators or guardians or their legal counsel, or for extraordinary fees, shall be paid without prior court approval. The court will review such fee petitions in accordance with the provisions of Rules of Court, rules 7.702, 7.703, and 7.750, et seq. Pursuant to Rules of Court, rule 7.751(b), all petitions for orders fixing and allowing compensation to a guardian or conservator or their legal counsel must comply with Rules of Court, rule 7.702.
- B.** When court approval is needed for compensation to a trustee, the amount will be determined in accordance with the provisions of Probate Code section 15680, et seq., and Rules of Court, rule 7.776. Generally, a fee of one percent of the market value of the trust assets will be considered the reasonable compensation for ordinary trustee services, although the court will entertain requests for a higher rate of compensation. If a trustee seeks additional compensation for extraordinary services, the trustee must provide the court with a detailed description of the extraordinary services rendered and the amount of additional compensation requested.
- C.** A party may aid the court in its determination of just and reasonable compensation for trustees, conservators, guardians, or their legal counsel by filing in advance of the hearing a statement addressing factors that may be considered by the court such as those provided in Rules of Court, rules 7.756 and 7.776. (Effective 7/1/02; revised 7/1/09)

9.8 Statutory Fees and Commissions in Decedents’ Estates

In decedents’ estates, allowances on account of statutory fees or commissions will be granted by the court only in proportion to the work actually completed. The last 25 percent of statutory fees or commissions will not be allowed before the approval of the final account and the decree of distribution, unless it can be shown that payment of a greater amount will benefit the estate. All or substantially all of the statutory fees or commissions may be allowed when it is shown that services have been performed but that the estate has not closed because of reasons beyond the control of the petitioning party. (Effective 7/1/02)

9.9 Preliminary Distributions

Petitions for preliminary distributions must include a statement as to why the estate may not now be closed. (Effective 7/1/02)

9.10 Payment of Court Investigator Fees

Pursuant to Probate Code sections 1513.1 (guardianships) and 1851.5 (conservatorships), the court shall make an assessment for any investigation or review conducted by the court investigator, and shall order reimbursement to the court for the amount of the assessment, unless the court defers or waives reimbursement based on a showing of hardship.

The assessed court investigator fee must be paid before any petition or accounting will be approved by the court. A copy of the receipt for fees paid must be filed with the court before any hearing for which a court investigation was conducted. If the conservator, guardian, or other person liable for payment of the assessment believes the fees should be deferred or waived due to hardship, the subject petition shall include a request for deferral or waiver and shall set forth facts establishing a hardship. (Effective 7/1/09)

RULE 10: JUVENILE COURT RULES

10.1 Appointment for Counsel for the Child

The court must appoint counsel for the child in accordance with the provisions of California Rules of Court, rule 5.660(b). Any attorney appointed to represent the child must meet the competence requirements set forth in these rules and must comply with the practice standards set forth in rules 10.4 and 10.5 of these rules. (Effective 7/1/02; revised 7/1/05; revised 1/1/07)

10.2 Competency Requirements for Counsel

- A.** All attorneys who represent parties in juvenile court proceedings shall meet the minimum standards of training and/or experience set forth in these rules. Each attorney of record for a party to a dependency matter who has not been previously certified under these rules, and who believes that he or she meets the minimum standards of competency, shall, within 10 days of his or her first appearance in a dependency matter, complete and submit to the Court Executive Officer of the court a memorandum certifying that he or she meets the standards of competence as set forth in California Rules of Court, rule 5.660(d).
- B.** Attorneys who meet the minimum standards of training and/or experience as set forth here and as confirmed by the memorandum of certification submitted to the court shall be deemed competent to practice before the juvenile court in dependency cases except as provided in subdivision C of this rule.
- C.** Notwithstanding the submission of a memorandum certifying that the attorney has met the minimum standards for training and/or experience, the court may determine, based on conduct or performance of counsel before the court in a dependency case, that a particular attorney does not meet minimum competency standards. In such cases, the court shall proceed as set forth in rule 10.7.
- D.** The Court Executive Officer is responsible for maintaining and monitoring memoranda of certification for accuracy and compliance with renewal requirements and for maintaining a roster of attorneys who meet the requirements of this rule. Appointments may only be made from the most up-to-date roster.
- E.** In the case of an attorney who maintains his or her principal office outside of this county, proof of certification by the juvenile court of the California county in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile proceeding in this county. (Effective 7/1/02; revised 7/1/05; revised 1/1/07)

10.3 Minimum Standards of Education and Training

- A.** All attorneys appearing in juvenile dependency proceedings must meet the minimum standards of competence set forth in these rules. These rules are applicable to attorneys representing public agencies, attorneys employed by public agencies or public or private organizations providing legal services under contract with the court, attorneys appointed by the court to represent any party in a juvenile dependency proceeding, and attorneys who are privately retained to represent a party to a juvenile dependency proceeding.
- B.** Attorneys appearing in a dependency matter before the juvenile court shall not seek certification and shall not be certified by the court as competent until the attorney has completed the following minimum training and educational requirements. Prior to certification, the attorney shall have either have:

 - 1. Participated in at least eight (8) hours of training or education in juvenile dependency law, which training or education shall have included information on the applicable case law and statutes; the rules of court; judicial council forms; trial techniques and skills; writs and appeals; child development; child abuse and neglect; family reunification, family preservation, and reasonable efforts; domestic violence; and substance abuse, or
 - 2. At least six (6) months of experience in dependency proceedings in which the attorney has demonstrated competence in the attorney's representation of his or her clients in said proceedings. In determining whether the attorney has demonstrated competence, the court shall consider whether the attorney's performance has substantially complied with the requirements of these rules.
- C.** In order to retain his or her certification to practice before the juvenile court, each attorney who has been previously certified by the court shall submit a new certificate of competence to the court on or before January 31 of the third year after the year in which the attorney is first certified, and then every third year thereafter. The attorney shall attach to the renewal certificate of competence evidence that he or she has completed at least eight (8) hours of continuing training or education directly related to dependency proceedings since the attorney was last certified. Evidence of completion of the required number of hours of training or education may include a copy of a certificate of attendance issued by a California MCLE provider; a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is a MCLE provider; a copy of the training or educational program schedule together with evidence of attendance at such program; or such other documentation as may reasonably be considered to demonstrate the attorney's attendance at such program. Attendance at a court-sponsored or approved program will also fulfill this requirement.

- D.** The attorney's continuing training or education shall be in the areas set forth in subdivision B(1) of this rule, or in other areas related to juvenile dependency practice including, but not limited to, special education, mental health, health care, immigration issues, the rules of evidence, adoption practice and parentage issues, state and federal public assistance programs, the Uniform Child Custody Jurisdiction and Enforcement Act, the Parental Kidnapping Prevention Act, the Adoption and Safe Families Act, the Indian Child Welfare Act, the Interstate Compact of the Placement of Children, client interviewing and counseling techniques, case investigation and settlement negotiations, mediation, basic motion practice, and the rules of civil procedure.
- E.** When a certified attorney fails to submit evidence that he or she has completed at least the minimum required training and education to the court by the due date, the court must notify the attorney that he or she will be decertified. That attorney shall have 20 days from the date of the mailing of the notice to submit evidence of his or her completion of the required training or education. If the attorney fails to submit the required evidence or fails to complete the required minimum hours of continuing training or education, the court must order, except in cases where a party is represented by retained counsel, that certified counsel be substituted for the attorney who fails to complete the required training. In the case of retained counsel, the court must notify the party that his or her counsel has failed to meet the minimum standards required by these rules. The determination whether to obtain substitute counsel shall be solely within the discretion of the party so notified. (Effective 7/1/02)

10.4 Standards of Representation

All attorneys appearing in dependency proceedings must comply with the following minimum standard of representation:

- A.** The attorney shall thoroughly and completely investigate the accuracy of the allegations of the petition or other moving papers and the court reports filed in support thereof. This shall include conducting a comprehensive interview with the client to ascertain his or her knowledge of and/or involvement in the matters alleged or reported; contacting social workers and other professionals associated with the case to ascertain if the allegations and/or reports are supported by accurate facts and reliable information; consulting with and, if necessary, seeking the appointment of experts to advise the attorney or the court with respect to matters which are beyond the expertise of the attorney and/or the court; and obtaining such other facts, evidence, or information as may be necessary to effectively present the client's position to the court.
- B.** The attorney shall determine the client's interests and the position the client wishes to take in the matter. Except in those cases in which the client's whereabouts are unknown, this shall include a comprehensive interview with the

client. If the client is a child, in addition to interviewing the child, the attorney shall also interview the child's caretaker. If the caretaker is a parent, the child's attorney must obtain the consent of the parent's attorney before the parent may be interviewed. If the child is placed out-of-home, the attorney or the attorney's agent shall make at least one (1) visit to the child at the child's placement prior to the jurisdiction hearing. Thereafter, the attorney or the attorney's agent should make at least one (1) visit to the child at the child's placement prior to each review hearing or more frequently if necessary to establish and maintain an adequate and professional attorney-client relationship.

- C. The attorney shall advise the client of the possible courses of action and of the risks and benefits of each. This shall include advising the client of the risks and benefits of resolving disputed matters without the necessity for a hearing and of the necessity for adhering to court-mandated time limits.
- D. The attorney shall vigorously represent the client within applicable legal and ethical boundaries. This shall include the duty to work cooperatively with other counsel, CASA, and the court to comply with Local Rules and procedures, as well as with statutorily mandated timeline and to explore ways to resolve disputed matters without hearing if it is possible to do so in a way that is consistent with the client's interests. (Effective 7/1/02)

10.5 Caseload Standards

Every attorney appointed to represent children must take care to ensure that he or she can adequately and competently represent all of the attorney's clients in a manner consistent with the requirements of Welfare and Institutions Code section 317(c), California Rules of Court, rule 5.660, and these rules. Any attorney who is unable to meet these requirements because of the size of the attorney's caseload or the demands of a particular case or cases, must notify the juvenile court judge that the attorney is unable to accept any new cases. Further, said attorney must move to be relieved as attorney of record in any existing case in which the attorney cannot provide adequate and competent representation. Upon an adequate showing, the court must appoint substitute counsel for the child. (Effective 7/1/02; revised 1/1/07)

10.6 Procedures for Reviewing and Resolving Complaints

- A. Any party to a juvenile court proceeding may lodge a written complaint with the court concerning the performance of his or her appointed attorney in a juvenile court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a child, the complaint may be lodged on the child's behalf by the social worker, a caretaker relative, or a foster parent.
- B. Each appointed attorney shall give written notice to his or her adult clients of the procedure for lodging complaints with the court concerning the performance of an appointed attorney. The notice shall be given to the client within ten (10) days of

the attorney's appointment to represent that client. Evidence that a copy of said notice was given or mailed to the client shall be provided to the court within ten (10) days of a request therefore from the court. In the case of a child client, the notice shall be mailed or given to the current caretaker of the child. If the child is 12 years of age or older, a copy of the notice shall also be sent or given to the minor.

- C.** The court shall review a complaint within ten (10) days of receipt. If the court determines that the complaint presents reasonable cause to believe that the attorney may have failed to act competently or has violated Local Rules, the court shall notify the attorney in question of the complaint, shall provide the attorney with a copy of the complaint, and shall give the attorney 20 days from the date of the notice to respond to the complaint in writing.
- D.** After a response has been filed by the attorney or the time for submission of a response has passed, the court shall review the complaint and the response if any to determine whether the attorney acted contrary to Local Rules or has acted incompetently. The court may ask the complainant or the attorney for additional information prior to making a determination on the complaint.
- E.** If, after reviewing the complaint, the response and any additional information, the court finds that the attorney acted contrary to the rules of the court, the court may reprove the attorney, either privately or publicly, and may, in cases of willful or egregious violations of Local Rules, issue such reasonable monetary sanctions against the attorney as the court may deem appropriate.
- F.** If, after reviewing the complaint, the response, and any additional information, the court finds that the attorney acted incompetently, the court may order that the attorney practice under the supervision of a mentor attorney for a period of at least six (6) months, or that the attorney complete a specified number of hours of training or education in the area in which the attorney was found to have been incompetent, or both. In cases in which the attorney's conduct caused actual harm to his or her client, the court shall order that competent counsel be substituted for the attorney found to have been incompetent, and may, in the court's discretion, refer the matter to the State Bar of California for further action.
- G.** The court shall notify the attorney and the complaining party in writing of its determination of the complaint. If the court makes a finding under subdivisions E or F, the attorney shall have ten (10) days after the date of the notice to request a hearing before the court concerning the court's proposed action. If the attorney does not request a hearing within that period of time, the court's determination shall become final.
- H.** If the attorney requests a hearing, the attorney shall serve a copy of the request on the complaining party. The hearing shall be held as soon as practicable after the

attorney's request therefore, but in no case shall it be held more than 30 days after it has been requested except by stipulation of the parties. The complainant and the attorney shall each be given at least ten (10) days' notice of the hearing. The hearing may be held in chambers. The hearing shall not be open to the public. The court may designate a commissioner, referee, judge pro tempore, or any qualified member of the bar to act as hearing officer.

- I. At the hearing, each party shall have the right to present arguments to the hearing officer with respect to the court's determination. Such arguments shall be based on the evidence before the court at the time the determination was made. No new evidence may be presented unless the party offering such evidence can show that it was not reasonably available to the party at the time that the court made its initial determination with respect to the complaint. Within ten (10) days after the hearing, the court or hearing officer shall issue a written determination upholding, reversing, or amending the court's original determination. The hearing decision shall be the final determination of the court with respect to the matter. A copy of the hearing decision shall be provided to both the complainant and the attorney. (Effective 7/1/02)

10.7 Procedures for Informing the Court of the Interests of A Dependent Child.

- A. At any time during the pendency of a dependency proceeding, any interested person may notify the court that the minor who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum. If counsel for the child or a CASA representative, acting as guardian ad litem for the child, becomes aware that the child may have a right or interest which needs to be protected or pursued in another judicial or administrative forum, the CASA representative or counsel for the child must notify the court of such right or interest as soon as it is reasonably possible for counsel or the CASA representative to do so.
- B. Notice to the court may be given by the filing of Judicial Council form JV-180 or by the filing of a declaration. In either case, the person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued, the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected, and the nature of the proceedings being contemplated or conducted there.
- C. If the person filing the notice is the counsel for the child, the notice shall state what action on the child's behalf the attorney believes is necessary, whether the attorney is willing or able to pursue the matter on the child's behalf, whether the association or appointment of counsel specializing in practice before that agency or court may be necessary or appropriate, whether the appointment of a guardian ad litem may be necessary to initiate or pursue the proposed action, whether joinder of a government agency or private service provider to the juvenile court

proceedings pursuant to Welfare and Institutions Code section 362 may be appropriate or necessary to protect or pursue the child's interests and whether further investigation may be necessary.

- D.** If the person filing the notice is not the attorney for the child, a copy of the notice shall be served on the attorney for the child, or, if the child is unrepresented, upon the guardian ad litem for the child.
- E.** The court may set a hearing on the notice if the court deems it necessary in order to determine the nature of the child's right or interest or whether said interest should be protected or pursued.
- F.** If the court determines that further action on behalf of the child is required, the court shall do one or more of the following:
 - 1. Authorize the child's attorney to pursue the matter on the child's behalf;
 - 2. Appoint an attorney to pursue the matter on the child's behalf;
 - 3. Notice a joinder hearing pursuant to section 362 compelling the responsible agency or private service provider to report to the court with respect to whether it has carried out its statutory duties with respect to the child;
 - 4. Appoint a guardian ad litem for the child for the purpose of initiating or pursuing appropriate action in the other forum(s);
 - 5. Take any other action the court may deem necessary or appropriate to protect the welfare, interests, and rights of the child. (Effective 7/1/02)

10.8 Court-Appointed Special Advocate (CASA)

The juvenile court may appoint a Court-Appointed Special Advocate (CASA) to represent the interests of dependent or delinquent children. In order to qualify for appointment, the CASA representative must be trained by and function under the auspices of the CASA program formed and operating under the guidelines established by the California Judicial Council, as consistent with those guidelines established by the National Court Appointed Special Advocate Association and California law. (Welf. & Inst. Code § 100; Cal. Rules of Court, rule 5.655) The CASA program shall report regularly to the presiding judge of the juvenile court with evidence that it is operating pursuant to these guidelines. (Effective 7/1/05; revised 1/1/07)

10.9 CASA Reports

In any case in which the court has ordered the appointment of a CASA representative, CASA must submit reports to the court at least two (2) court days before each of the following hearings:

six-month review; twelve-month review (permanency hearing); eighteen-month review (permanency review hearing); selection and implementation hearing (366.26 hearing); and post-permanency planning reviews. If CASA was appointed before the establishment of jurisdiction, CASA may submit a report to the court at least two (2) court days before the jurisdiction/disposition hearing. The content of the report must be limited to the current condition of the child and needed services; jurisdictional issues must not be addressed. (See, Cal. Rules of Court, rule 5.655(k)(5)) Only counsel and assigned social workers are entitled to receive copies of CASA reports. Relatives, de facto parents, foster parents, and service providers are not entitled to receive copies of CASA reports. The reports will be copied and distributed by CASA. (Effective 7/1/05; revised 1/1/07)

RULE 11: APPELLATE DIVISION

11.1 Applicable Rules

Except as modified by this section, the California Rules of Court on appeals to the Superior Court (commencing with rule 8.800) apply to the appellate division. (Effective 7/1/09)

11.2 Supervising Judge

The supervising judge of the appellate division is designated annually by the chairperson of the Judicial Council. (Effective 7/1/93; renumbered 1/1/06; renumbered 7/1/09)

11.3 Sessions

The appellate division will convene at least once each month at a time and place designated by the supervising judge of the appellate division. (Effective 7/1/93; renumbered 1/1/06; renumbered 7/1/09)

11.4 Briefs

With the exception of briefs filed in appeals from infractions, all briefs filed with the appellate division must be bound on the left side, with a plastic cover, and be accompanied by three (3) additional copies. (Effective 7/1/02; renumbered 1/1/06; revised and renumbered 7/1/09)

11.5 Applications

Any applications involving matters pending before the appellate division shall be presented to the appellate division presiding judge. All applications shall be heard at 11:30 a.m., by appointment only. The appointment shall be set by calling the clerk of the appellate division. The applicant shall give opposing parties or counsel at least 24 hours' notice of the hearing, unless the nature of the application precludes such notice, and the court for good cause waives notice. (Effective 7/1/02; renumbered 1/1/06; revised 7/1/08; revised and renumbered 7/1/09)

11.6 Use of Court File Instead of Clerk's Transcript

- A.** In an appeal from a limited civil case, an appellant may elect to use the original trial court file as the record on appeal in lieu of a clerk's transcript, pursuant to Rules of Court, rule 8.833. An appellant electing to use the trial court file in a limited civil appeal must provide notice of the election when designating the record on appeal, pursuant to Rules of Court, rule 8.831
- B.** In misdemeanor appeals, the court has elected to use the original trial court file in lieu of a clerk's transcript, pursuant to Rules of Court, rule 8.863.

- C.** In infraction appeals, the court has elected to use the original trial court file in lieu of a clerk's transcript, pursuant to Rules of Court, rule 8.914. (Effective 7/1/09)

11.7 Use of Official Electronic Recording

- A.** In an appeal from a limited civil case in which the proceedings were officially recorded electronically in accordance with Rules of Court, rule 8.835, the original recording or a copy prepared by the court may be transmitted as the record of oral proceedings without being transcribed in lieu of a reporter's transcript or settled statement if so stipulated by the parties or ordered by the trial court, pursuant to Rules of Court, rule 8.837(d)(6)(A).
- B.** In an appeal from a misdemeanor case in which the proceedings were officially recorded electronically in accordance with Rules of Court, rule 8.868, the original of the recording or a copy prepared by the court may be transmitted as the record of the oral proceedings without being transcribed in lieu of a reporter's transcript or settled statement if so stipulated by the parties or ordered by the trial court, pursuant to Rules of Court, rule 8.869(d)(6)(A).
- C.** In an appeal from an infraction case in which the proceedings were officially recorded electronically in accordance with Rules of Court, rule 8.917, the original recording or a copy made by the court may be transmitted as the record of the oral proceedings without being transcribed in lieu of a reporter's transcript or settled statement if so stipulated by the parties or ordered by the trial court, pursuant to Rules of Court, rule 8.916(d)(6)(A). (Effective 7/1/09)

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Notice of Appeal & Request for Trial De Novo (Labor Commissioner)	
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(Eff. 7/1/02)

- 1.1 Effective Date of Rules
(Eff. 7/1/02; rev. 7/1/03; rev. 7/1/05; rev. 1/1/06; rev. 7/1/05; rev. 1/1/07; rev. 7/1/07; rev. 7/1/08; rev. 1/1/09; rev. 7/1/09)
- 1.2 Citation of Rules
(Eff. 1/1/99)
- 1.3 Construction and Application of Rules
(Eff. 7/1/02)

RULE 2 COURT ORGANIZATION

(Eff. 7/1/02)

- 2.1 Policy Making Authority
(Eff. 1/1/99)
- 2.2 Administrative Authority
(Eff. 7/1/02)
- 2.3 Administrative Responsibility
(Eff. 7/1/93)
- 2.4 Presiding Judge and Assistant Presiding Judge
(Eff. 7/1/02; rev. 7/1/06; rev. 7/1/08)
- 2.5 Location and Schedule of Court Sessions
(Eff. 7/1/02; rev. 1/1/06)
- 2.6 Applications for Ex Parte Order
(Eff. 7/1/02; rev. 7/1/03; rev. 7/1/05; rev. 1/1/06; rev. & relettered 7/1/06; rev. 1/1/07)
- 2.7 “Duty” Judge
(Eff. 7/1/02)
- 2.8 Compensation of Court-Appointed Counsel and Investigators
(Eff. 1/1/99; rev. 7/1/04; rev. 7/1/07)
- 2.9 Telephonic Appearances
(Eff. 7/1/02; rev. 7/1/03; rev. 7/1/06; rev. 1/1/07; rev. 7/1/08)
- 2.10 Tentative Ruling System
(Eff. 7/1/02; rev. 7/1/03; rev. 1/1/07; rev. 1/1/09)
- 2.11 Facsimile Filing
(Eff. 7/1/02; rev. 1/1/07)
- 2.12 Sealing of Juror Information
(Eff. 7/1/02)
- 2.13 Courtroom Security
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- 2.14 Court Reporter Fees
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- 2.15 Court Reporting Services
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- 2.16 Audio and Video Recording and Transmission
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- 3.2 Use of Judicial Council and Napa County Forms
(*Eff. 7/1/93; rev. 7/1/04*)
- 3.3 Orders to Be Submitted
(*Eff. 7/1/03; deleted 7/1/04*)
- 3.3 Proof of Service
(*Eff. 7/1/02; renumbered 1/1/06*)
- 3.4 Judgments and Decrees
(*Eff. 7/1/02; rev. 7/1/03; renumbered 1/1/06; deleted 7/1/08*)
- 3.4 Endorsing Copies
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- 3.5 Prepaid, Pre-Addressed Envelopes Required
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- 3.6 Time and Date Must be Shown
(*Eff. 7/1/93; renumbered 1/1/06; renumbered 7/1/08*)
- 3.7 Requests for Judicial Notice
(*Eff. 1/1/99; rev. 7/1/05; renumbered 1/1/06; renumbered 7/1/08*)
- 3.8 Filing Documents in Matters Set on Shortened Time
(*Eff. 7/1/02; renumbered 1/1/06; renumbered 7/1/08*)
- 3.9 Redaction of Social Security Numbers
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- 4.3 Motions
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- 4.4 *In Limine* Motions
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6.3 Short Cause Trials
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6.4 Long Cause Trials
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6.6.1 Service of Complaint
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6.6.2 Mandatory Settlement Conference
(*Eff. 7/1/02; rev. 1/1/06; rev. 1/1/07*)

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6.6.4 Dismissal of Action or Entry of Judgment Following Settlement
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6.7 Structured or Conditional Settlements
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6.7 Requests for Continuance to be Signed by Parties
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6.8 Uninsured Motorist Cases
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6.9 Communication With Court Staff
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6.10 Hearings Exceeding 15 Minutes
(*Eff. 7/1/03; renumbered 1/1/06*)

6.11 Attorneys' Fees In Default Proceedings
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- 7.4 Ex Parte Orders
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- 7.5 Special Procedures for Domestic Violence Restraining Orders and
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- 7.5.3 Service of Summons and Petition – Forms to be Served on Other Party
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(*Eff. 7/1/02; deleted 7/1/03*)

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(*Renumbered 1/1/06*)

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- 11.5 Other Rules of Appeal
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